REMARKS

Claims 1-2, 4-13, 16-20, 22-37, 41-43 and 45-47 are pending in the subject application. Applicants have amended claims 1-2, 4-13, 16-18, 20, 22-35, 37, 41-43 and 47. Support for these amendments may be found inter alia in the specification as follows: for the term "infectious particle" recited in claim 1: page 20, line 9 and 24 and page 24, line 20; for the term "recombinant" recited in claims 1, 6, 13, 18, 28 and 35: page 21, lines 3-8; for the term "infectivity" recited in claim 1: page 1, line 17. The remaining changes to the claims merely introduce minor grammatical and format changes. In making these amendments, applicants neither concede the correctness of the Examiner's rejections in the May 22, 2002 Final Office Action, nor abandon their right to pursue in a continuing application embodiments of the instant invention no longer claimed in this application. These amendments do not involve any issue of new matter. Therefore, entry of these amendments is respectfully requested such that claims 1-2, 4-13, 16-20, 22-37, 41-43 and 45-47 will still be pending.

Response to May 22, 2002 Final Office Action

Formalities

Applicants acknowledge the Examiner's statement that the rejections of the claims under 35 U.S.C. §112, first paragraph, 35 U.S.C. §112, second paragraph, 35 U.S.C. §102 over Christensen et al. in the previous office action is withdrawn.

Applicants also acknowledge the Examiner's statement that the rejection of claims 6, 7, 9, 10, 12, 16-20, 22-25, 27-34, 41 and 42 under 35 U.S.C. §102 over Colomar et al. is withdrawn.

Drawings

The Examiner stated that new formal drawings are required in this application because recent changes to the M.P.E.P. section 608.02(c) no longer allow deferral of submission of drawings pursuant to notification.

In response, applicants note that two (2) sheets of corrected formal drawings for Figures 3A and 3C, as requested by the draftperson in the August 20, 1998 Notice of Draftperson's Patent Drawing Review, are concurrently being filed with the United States Patent and Trademark Office by First Class Mail in connection with the subject application, instead of by facsimile.

Claim Objections

The Examiner objected to claims 1, 6, 7, 20 and 27 because of the following informalities: (i) claims 1, 6, and 7 are headed by "(Thrice amended)". The Examiner stated that the header should state (Four times amended); (ii) claim 20 is headed by "(Twice amended)". The Examiner stated that the header should state (Thrice amended); and (iii) claim 27 recites at lines 2-3 "nucleic acid has operably linked thereto DNA sequence". The Examiner stated that the word "a" should be inserted between "thereto" and "DNA".

In response, applicants respectfully traverse the Examiner's objection with respect to claims 1, 6, 7, 20 and 27. Nevertheless, without conceding the correctness of the Examiner's objections but to expedite prosecution of the subject application, applicants have amended claims 1, 6, 7, 20 and 27 to address the various Examiner's objections. Applicants contend that these amendments obviate the above objections. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw these grounds of objection.

Claim Rejections Under 35 U.S.C. §112, Second Paragraph

The Examiner rejected claims 1, 2, 4-13, 16-20, 22-28 and 43 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

The Examiner stated that claim 1 appears to claim a Markush group without the proper use of the Markush format. The Examiner stated that alternative expressions are permitted if they present no uncertainty or ambiguity with respect to the question of scope or clarity of the claims. The Examiner stated that one acceptable form of alternative expression, which is commonly referred to as a Markush group, recites members as being "selected from the group consisting of A, B and C."

The Examiner stated that claim 1 recites the limitation "said mammalian cell" in lines 14 and 20. The Examiner stated that there is insufficient antecedent basis for this limitation in the claim.

The Examiner stated that claim 6 recites the limitations "said non-viral constituent" in line 1. The Examiner stated that there is insufficient antecedent basis for this limitation in the claim.

The Examiner stated that claim 7 recites the limitation "the construct" in line 3. The Examiner stated that there is insufficient antecedent basis for this limitation in the claim.

The Examiner stated that claim 12 recites the limitation "said non-viral constituent" in line 1. The Examiner stated that there is insufficient antecedent basis for this limitation in the claim.

The Examiner stated that claim 12 recites the limitation "the

construct" in lines 6 and 8. The Examiner stated that there is insufficient antecedent basis for this limitation in the claim.

The Examiner stated that claim 18 is incomplete for omitting an essential step, such omission does not set forth the method in clear and unambiguous terms (MPEP §2172.01). The Examiner stated that the omitted step is a correlation, or recapitulation step at the end of the claim which restates the preamble, otherwise the claims do not result in what is stated in the preamble. The Examiner stated that the preamble includes SV40 viruses which do not appear in the final step.

The Examiner stated that claim 18 recites the limitation "said purified exogenous nucleic acid" in line 3. The Examiner stated that there is insufficient antecedent basis for this limitation in the claim.

The Examiner stated that claim 25 recites the limitation "said purified exogenous nucleic acid" in lines 1, 3, and 10. The Examiner stated that there is insufficient antecedent basis for this limitation in the claim.

The Examiner stated that claim 43 recites the limitation "the construct" in line 4. The Examiner stated that there is insufficient antecedent basis for this limitation in the claim.

In response, applicants respectfully traverse the Examiner's rejections with respect to claims 1, 2, 4-13, 16-20, 22-28 and 43. Nevertheless, without conceding the correctness of the Examiner's rejections but to expedite prosecution of the subject application, applicants have amended claims 1, 2, 4-13, 16-20, 22-28 and 43 to address the Examiner's rejections. Applicants contend that these

amendments obviate the above rejections. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw these grounds of rejection.

Claim Rejections Under 35 U.S.C. §102(b)

The Examiner rejected claims 1, 2, 4, and 5 under 35 U.S.C. §102(b) as being anticipated by Colomar et al. The Examiner stated that Colomar et al. taught (citing the abstract, the introduction, materials and methods, the figures and the discussion) a complex comprising a semi-purified SV40 capsid protein and at least one other SV40 protein, which may be VP1, VP2, VP3 or agnoprotein, where the presence of these proteins are inherent in Colomar et al. The Examiner stated that the complex may comprise three capsid proteins and foreign DNA.

The Examiner stated that amendments to claims 6, 12 and 18 have necessitated the new grounds for rejection above. The Examiner stated that arguments set forth in Paper No. 19 regarding the limitation of "non-viral" exogenous nucleic acids do not apply to claims 1,2, 4 and 5. The Examiner stated that therefore these arguments over Colomar et al. are not relevant to the newly formed rejection above, and the arguments are not addressed with respect to this rejection.

In response, applicants respectfully traverse the Examiner's rejection. Briefly, claims 1, 2, 4-6, 12 and 18 provide an infectious particle complex comprising one or more SV40 capsid proteins and a purified recombinant nucleic acid constituent.

Colomar et al. do not teach an infectious particle complex comprising one or more SV40 capsid proteins and a purified recombinant constituent. Indeed, Colomar et al. describe the

packaging of polyoma virus DNA, which they describe as "another papovavirus similar in size and structure to SV40" (see page 2784, column 1). Colomar et al. say nothing about the production of an infectious particle complex comprising a recombinant constituent. Colomar et al. therefore do not teach an infectious particle complex comprising one or more SV40 capsid proteins and a purified recombinant nucleic acid constituent, and thus fail to teach each and every element of the rejected claims.

In view of the above remarks, applicants maintain that claims 1, 2, 4-6, 12 and 18 satisfy the requirements of 35 U.S.C. §102(b) and respectfully request that the Examiner reconsider and withdraw this ground of rejection.

Claim Rejections Under 35 U.S.C. §103(a)

The Examiner rejected claims 1, 2, 4-13, 16-20, 22-37, 41-43 and 45-47 under 35 U.S.C. §103(a) as being unpatentable over Colomar et al. in view of Christensen et al., Carswell et al., Oppenheim et al. and U.S. Pat. No. 5,863,541.

In response to the Examiner's rejection, applicants respectfully traverse, and maintain that the Examiner has failed to establish a prima facie case of obviousness against the rejected claims.

Briefly, claims 1, 2, 4-13, 16-20, 22-37, 41-43 and 45-47 provide an infectious particle complex comprising one or more SV40 capsid proteins and a purified recombinant nucleic acid constituent [emphasis added].

To establish a prima facie case of obviousness, the Examiner must demonstrate three things with respect to each claim. First, the cited references, when combined, teach or suggest each element of

the claim. Second, one of ordinary skill would have been motivated to combine the teachings of the cited references at the time of the invention. And third, there would have been a reasonable expectation that the claimed invention would succeed.

The references cited against the rejected claims fail to support a prima facie case of obviousness.

As previously discussed, Colomar et al. do not teach an infectious particle complex comprising one or more SV40 capsid proteins and a purified recombinant nucleic acid constituent. Indeed, Colomar et al. describe the packaging of viral DNA, i.e. polyoma virus DNA. Colomar et al. say nothing about the production of an infectious particle complex comprising a recombinant constituent. Furthermore, as applicants point out on page 1, lines 16-17 of the subject specification: "Later, *in vitro* packaging experiments . . . did not yield particles with infectivity above the level of naked DNA" [citing Colomar et al.]. Therefore, Colomar et al. do not teach "an infectious particle complex wherein the infectivity of the packaged nucleic acid is increased relative to the infectivity of unpackaged nucleic acid," i.e. naked DNA, as recited in amended claim 1 of the subject application.

Christensen et al. do nothing more than disclose *in vitro* formation of infectious aggregates using empty virion shells and an SV40 nucleoprotein complex, i.e. a viral constituent. Nowhere is a method of producing an infectious particle complex comprising one or more SV40 capsid proteins and a purified recombinant nucleic acid constituent suggested. Furthermore, as applicants point out on page 1, lines 13-15 of the subject specification: "The early attempts to package *in vitro* foreign DNA in these aggregates . .

. produced infectious products which did not resemble SV40 virions" [citing Christensen et al.].

Carswell et al. only teach that the agnoprotein functions to enhance efficiency of perinuclear-nuclear localization of VP1. In fact, a method of packaging recombinant constituents is not mentioned at all.

Oppenheim et al. teach encapsidation of vectors in COS cells, i.e. *in vivo* encapsidation. This reference does not teach or suggest a method of producing an infectious particle complex *in vitro* comprising one or more SV40 capsid proteins and a purified recombinant constituent [emphasis added].

Finally, U.S. Pat. No. 5,863,541 teaches the production of an AAV capsid vehicle comprising AAV capsid protein and a molecule. Nowhere is encapsidation using SV40 capsid proteins suggested.

Furthermore, the Examiner's use of U.S. Pat. No. 6,107,062 in support of his argument that there is motivation to combine U.S. Pat. No. 5,863,541 with the primary references is invalid because U.S. Pat. No. 6,107,062 did not issue until August 22, 2000, i.e. after the filing of the subject application. Therefore, neither applicants nor others of skill in the art would have had knowledge of its existence so as to be motivated by U.S. Pat. No. 6,107,062 at the time the subject application was filed.

To support a case of *prima facie* obviousness, Colomar et al. and any one of Christensen et al., Carswell et al., Oppenheim et al. or U.S. Pat. No. 5,863,541, when combined, would have to teach or suggest all elements of the rejected claims. Moreover, there would

have to have been a motive to combine them, and a reasonable expectation of the invention's success at the time of the invention. Again, one element of each rejected claim is an infectious particle complex comprising one or more SV40 capsid proteins and a purified recombinant constituent. Thus, at the very least, these references would have to teach or suggest this element.

This they fail to do. Applicants discovered a method of producing an infectious particle complex *in vitro* comprising one or more SV40 capsid proteins and a purified recombinant constituent. Thus, before applicants' discovery, it would have defied known principles to produce an infectious particle complex produced *in vitro* and comprising one or more SV40 capsid proteins and a purified recombinant constituent, since no such complex produced *in vitro* was known.

Thus, Colomar et al. and any one of Christensen et al., Carswell et al., Oppenheim et al. or U.S. Pat. No. 5,863,541 do not teach or suggest a method of producing an infectious particle complex *in vitro* comprising one or more SV40 capsid proteins and a purified recombinant constituent, and thus do not teach or suggest all elements of the rejected claims. The Examiner failed to show how these references, alone or combined with others, would motivate one to arrive at the claimed invention, and reasonably expect its success.

Accordingly, the Examiner has failed to establish the prima facie obviousness of claims 1, 2, 4-13, 16-20, 22-37, 41-43 and 45-47 over these references. For the same reasons, applicants alternatively maintain that the rejected claims would not have been

obvious over Colomar et al. and any one of Christensen et al., Carswell et al., Oppenheim et al. or U.S. Pat. No. 5,863,541.

In view of the above remarks, applicants maintain that claims 1, 2, 4-13, 16-20, 22-37, 41-43 and 45-47 satisfy the requirements of 35 U.S.C. §103(a) and respectfully request that the Examiner reconsider and withdraw this ground of rejection.

Summary

For the reasons set forth hereinabove, applicants respectfully request that the Examiner reconsider and withdraw the various grounds of objection and rejection and earnestly solicit allowance of the now pending claims, i.e. claims 1-2, 4-13, 16-20, 22-37, 41-43 and 45-47.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

No fee is deemed necessary in connection with the filing of this Preliminary Amendment. However, if any fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,

John P. White
Registration No. 28,678
Attorney for Applicant(s)
Cooper & Dunham, LLP
1185 Avenue of the Americas
New York, New York 10036
(212) 278-0400

EXHIBIT A

Marked-up Version of Amended Claims Pursuant to 37 C.F.R. §121(c)(1)(ii)

--1. ([Four] Five Times Amended) An infectious particle complex comprising semi-purified or pure SV40 VP1 capsid protein or a mixture of SV40 VP1 capsid protein and at least one other SV40 capsid protein; and a purified [non-viral] recombinant nucleic acid constituent packaged therein, which nucleic acid constituent is selected from the group consisting of:

(a) a purified exogenous DNA, or a purified exogenous DNA encoding an exogenous protein or peptide, or a purified exogenous DNA encoding RNA;

(b) a vector comprising any of the purified exogenous DNAs of (a);

(c) a purified exogenous RNA, or a purified exogenous RNA encoding an exogenous protein or peptide;

(d) a vector comprising any of the purified exogenous RNAs of (c); [or] and

(e) a purified exogenous antisense RNA, purified exogenous ribozyme RNA or a[ny] purified exogenous RNA or purified exogenous DNA which inhibits or prevents the expression of undesired protein or proteins in [said] a mammalian cell;

and further comprising operatively linked elements sufficient for one or more of the following:

(i) replication of said constituent; or

(ii) expression of said constituent, [and] or in subcase (e)

(iii) prevention of expression of said undesired protein or proteins;

in said mammalian cell,

wherein the infectivity of the packaged recombinant nucleic acid is increased relative to the infectivity of unpackaged recombinant nucleic acid.--

--2. (Amended) [A] The complex according to Claim 1, further

comprising additional SV40 protein or proteins, preferably SV40 agnoprotein.

--4. (Amended) [A] The complex according to Claim 1, comprising a mixture of three semi-purified or pure SV40 capsid proteins.--

--5. (Amended) [A] The complex according to Claim 1, wherein said other SV40 capsid protein is semi-purified or pure VP2 or VP3.--

--6. ([Four] Five Times Amended) [A] The complex according to Claim 1, wherein said [non-viral] recombinant nucleic acid constituent is:

(a) purified exogenous circular or linear DNA;

(b) purified exogenous circular or linear DNA encoding a protein or peptide; or

(c) purified exogenous circular or linear DNA encoding RNA.--

--7. ([Four] Five Times Amended) [A] The complex according to Claim 6, wherein said purified exogenous DNA is DNA which encodes a protein or peptide, wherein said protein or peptide is not made or contained in said cell prior to infection with the [construct] complex, or is purified exogenous DNA which encodes a protein or peptide, wherein said protein or peptide is made or contained in said cell in an amount insufficient for proper cell function prior to infection with the [construct] complex, or is purified exogenous DNA which encodes a protein or peptide, wherein said protein or peptide is made or contained in said cell in a form inadequate for proper cell function prior to infection with the [construct] complex, or encodes a RNA.--

8. (Twice Amended) [A] The complex according to Claim 7, wherein said protein or peptide is an enzyme, a receptor, a structural protein, a regulatory protein or a hormone.--

--9. ([Thrice] Four Times Amended) [A] The complex according to Claim 1, further comprising SV40 *ori* DNA sequence as a replication regulatory element and further comprising a purified exogenous DNA sequence encoding one or more regulatory elements sufficient for the expression of said exogenous RNA or exogenous protein or peptide in said mammalian cell.--

--10. ([Thrice] Four Times Amended) [A] The complex according to Claim 1, wherein said constituent is purified exogenous RNA, wherein said purified exogenous RNA is RNA which encodes a protein or peptide which is not made or contained in said cell prior to infection with the [construct] complex, or is purified exogenous RNA which encodes a protein or peptide which is made or contained in said cell in an amount insufficient for proper cell function prior to infection with the [construct] complex, or is purified exogenous RNA which encodes a protein or peptide which is made or contained in said cell in a form, inadequate for proper cell function prior to infection with the [construct] complex, said purified exogenous RNA having regulatory elements, including translation signal or signals sufficient for the translation of said protein or peptide in said mammalian cell, operatively linked thereto.--

--11. (Twice Amended) [A] The complex according to Claim 10, wherein said protein or peptide is an enzyme, a receptor, a structural protein, a regulatory protein or a hormone.--

--12. ([Thrice] Four Times Amended) [A] The complex according to Claim 1, wherein said [non-viral] constituent is an exogenous protein or peptide which is, respectively, a protein or peptide which is not made or contained in said cell prior to infection with the [construct] complex, or is a protein or peptide which is made or contained in said

cell in an amount insufficient for proper cell function prior to infection with the [construct] complex, or is a protein or peptide which is made or contained in said cell in a form inadequate for proper cell function prior to infection with the [construct] complex.--

--13. ([Thrice] Four Times Amended) [A] The complex according to Claim 1, wherein said [non-viral] recombinant constituent is purified exogenous antisense RNA or DNA or purified exogenous ribozyme RNA, or any purified exogenous RNA or purified exogenous DNA which inhibits or prevents the expression of undesired protein or proteins in said mammalian cell.--

--16. (Amended) [A] The complex according to Claim 1, wherein said cell is a human cell selected from the group consisting of hemopoietic cells, epithelial cells, endothelial cells, liver cells, epidermal cells, muscle cells, tumor cells, nerve cells and germ line cells.--

--17. (Amended) [A] The complex according to Claim 16, wherein said hemopoietic cells are bone marrow cells, peripheral blood cells, or cord blood cells.--

--18. ([Four] Five Times Amended) A method for the *in vitro* construction of SV40 viruses or pseudoviruses comprising a purified exogenous [non-viral] recombinant nucleic acid comprising the following steps:

(a) allowing a semi-purified or pure SV40 VP1 capsid protein or a mixture of VP1 and at least one other SV40 capsid protein to self-assemble into SV40-like particles; and

(b) bringing the SV40-like particles assembled in step (a) into contact with said purified exogenous [non-viral] recombinant nucleic acid to give *in vitro*

constructed viruses, or into contact with a vector comprising said purified exogenous nucleic acid to give pseudoviruses,

so as to thereby effect *in vitro* construction of SV40 viruses or pseudoviruses.--

--20. ([Thrice] Four Times Amended) [A] The method according to Claim 18, wherein in step (a) at least one other SV40 protein, preferably SV40 agnoprotein, is added to the mixture of said SV40 capsid protein or proteins and said purified exogenous nucleic acid.--

--22. (Amended) [A] The method according to Claim 18, wherein said exogenous nucleic acid is circular or linear DNA.--

--23. (Amended) [A] The method according to Claim 18, wherein said exogenous nucleic acid is RNA.--

--24. (Amended) [A] The method according to Claim 18, wherein said exogenous nucleic acid encodes a protein or peptide [product].--

--25. ([Thrice] Four Times Amended) [A] The method according to Claim 22, wherein said [purified exogenous] circular or linear DNA is DNA which encodes a protein or peptide [product], wherein said protein or peptide is not made or contained in said cell prior to infection with [the construct] said SV40 viruses or pseudoviruses, or is [purified exogenous] circular or linear DNA which encodes a protein or peptide, wherein said protein or peptide is made or contained in said cell in an amount insufficient for proper cell function prior to infection with [the construct] said SV40 viruses or pseudoviruses, or is [purified exogenous] circular or linear DNA which encodes a protein or peptide, wherein said protein or peptide is made or contained in said cell in a form inadequate for

proper cell function prior to infection with [the construct] said SV40 viruses or pseudoviruses, or is [purified exogenous] circular or linear DNA which encodes RNA.--

--26. (Amended) [A] The method according to Claim 25, wherein said [exogenous] circular or linear DNA encodes a protein or peptide [product] which is an enzyme, a receptor, a structural protein, a regulatory protein or a hormone.--

--27. (Amended) [A] The method according to Claim 18, wherein in step (b) SV40 *ori* DNA sequence is added and said exogenous nucleic acid has operably linked thereto a DNA sequence encoding one or more regulatory elements sufficient for the expression of said exogenous protein in a cell.--

--28. ([Thrice] Four Times Amended) [A] The method according to Claim 18, wherein said [non-viral] recombinant exogenous nucleic acid is purified exogenous RNA, wherein said purified exogenous RNA is RNA which encodes a protein or peptide, wherein said protein or peptide is not made or contained in said cell prior to infection with the [construct] complex, or is purified exogenous RNA which encodes a protein or peptide, wherein said protein or peptide is made or contained in an amount insufficient for proper cell function prior to infection with the [construct] complex, or is purified exogenous RNA which encodes a protein or peptide, wherein said protein or peptide is made or contained in said cell in a form inadequate for proper cell function prior to infection with the [construct] complex, and wherein said purified exogenous RNA has regulatory elements, including translation signal, sufficient for the translation of said protein in said mammalian cell, operatively linked thereto.--

--29. ([Thrice] Four Times Amended) A method for the *in vitro* construction of SV40 viruses or pseudoviruses comprising a [non-viral] constituent, wherein the [non-viral] constituent comprises a purified exogenous protein or peptide, which method [comprising] comprises the following steps:

(a) allowing a semi-purified or purified SV40 VP1 capsid protein or a mixture of VP1 and at least one other SV40 capsid protein to self-assemble into SV40-like particles; and

(b) bringing the SV40-like particles assembled in step (a) into contact with said purified exogenous protein,

so as to thereby [give] effect *in vitro* [constructed] construction of SV40 viruses or pseudoviruses.--

--30. (Amended) [A] The method according to Claim 29, wherein said SV40 viruses or pseudoviruses are purified from any non-packaged protein.--

--31. (Amended) [A] The method according to Claim 29, wherein said exogenous protein or peptide is a naturally occurring or recombinant protein or peptide, a chemically modified protein or peptide, or a synthetic protein or peptide.--

--32. (Amended) [A] The method according to Claim 31, wherein said exogenous protein or peptide is a protein or peptide not made or contained in a cell prior to infection with the [construct] complex, or is a protein or peptide made or contained in said cell in an amount insufficient for proper cell function prior to infection with the [construct] complex, or is a protein or peptide made or contained in said cell in a form inadequate for proper cell function prior to infection with the [construct] complex.

--33. (Amended) [A] The method according to Claim 32, wherein said cell is a human cell selected from the group consisting of hemopoietic cells, muscle cells, tumor cells, nerve cells and germ line cells.--

--34. (Amended) [A] The method according to Claim 33, wherein said hemopoietic cells are bone marrow cells, peripheral blood cells, cord blood cells, or liver cells.--

--35. ([Four] Five Times Amended) A method for the *in vitro* construction of SV40 pseudoviruses comprising a [non-viral] recombinant nucleic acid constituent wherein said [non-viral] recombinant constituent comprises purified exogenous antisense RNA, or purified exogenous ribozyme RNA or purified exogenous RNA or purified exogenous [non-viral] recombinant DNA which inhibits or prevents the expression of undesired protein or proteins in a mammalian cell, comprising the following steps:

(a) allowing a semi-purified or pure SV40 VP1 capsid protein or a mixture of VP1 and at least one other SV40 protein to self assemble into SV40-like particles, and

(b) bringing said SV40 like particles obtained[,] in step (a) into contact with said purified exogenous antisense RNA, or purified exogenous ribozyme RNA, or purified exogenous RNA or purified exogenous [non-viral] recombinant DNA which inhibits or prevents the expression of undesired proteins in a mammalian cell,

so as to thereby [give] effect *in vitro* [constructed] construction of SV40 pseudoviruses.--

--37. ([Thrice] Four Times Amended) [A] The method according to Claim 35, wherein in step (a) at least one other SV40 protein, preferably SV40 agnoprotein, is added to the

mixture of SV40 capsid protein or protein and the purified exogenous antisense RNA or purified exogenous ribozyme RNA or purified exogenous RNA or purified exogenous DNA.--

--41. (Amended) A mammalian cell infected with [a] the complex of Claim 1.--

--42. (Amended) [An] The infected cell according to Claim 41, wherein the cell is a human cell selected from the group consisting of hemapoietic cells, muscle cells, tumor cells, nerve cells and germ line cells.--

--43. ([Thrice] Four Times Amended) An *in vitro* method of transforming a purified exogenous DNA, purified exogenous RNA, purified exogenous antisense RNA, purified exogenous ribozyme RNA, purified exogenous protein or peptide [product] into a cell comprising infecting said cell with the [construct] complex of Claim 1.--

-47. (Twice Amended) A complex comprising semi-purified or pure SV40 VP1 capsid protein or a mixture of VP1 and at least one other SV40 capsid protein, and a [non-viral] constituent, wherein the [non-viral] constituent is a purified exogenous protein or peptide.--